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LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 78 LGN 75,

Bangalore, dated 19th November 1975.

Ordered that the Karnataka Improvement Boards Ordinance, 1975 promulgated by the Governor of Karnataka in the Twenty-sixth Year of the Republic of India, be published as Karnataka Ordinance No. 20 of 1975 in the **Karnataka Gazette** for general information.

KARNATAKA ORDINANCE No. 20 OF 1975

THE KARNATAKA IMPROVEMENT BOARDS ORDINANCE, 1975

(Promulgated by the Governor of Karnataka in the Twenty-sixth Year of the Republic of India and first published in the Karnataka Gazette Extraordinary on the Twentieth day of November, 1975).

An Ordinance to provide for the establishment of Improvement Boards for the development of the Urban areas in the State of Karnataka and for matters connected therewith.

Whereas the Karnataka Legislative Assembly is not in session and only the Karnataka Legislative Council is in session and the Governor of Karnataka is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for the establishment of Improvement Boards for the development of Urban areas in the State of Karnataka;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Karnataka is pleased to promulgate the following Ordinance, namely:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Karnataka Improvement Boards Ordinance, 1975.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force at once in the urban areas comprising the Hubli, Dharwar Municipal Corporation, and the cities of Belgaum, Bellary, Bijapur, Bhadravathi, Davangere, Gulbarga and Shimoga, and on such date and in such other urban areas as the State Government may by notification specify and different dates may be specified for different urban areas.

2. Definitions.—(1) In this Ordinance, unless the context otherwise requires,—

(a) 'Board' means an Improvement Board established under section 3 for any urban area;

(b) 'Chairman' means the Chairman of the Board;

(c) 'Development' with its grammatical variations means the carrying out of building, engineering or other operations in, on, over or under the land or the making of any material change in any building or land and includes re-development but does not include regulation and development of drinking water and drainage facilities and slum clearance or slum improvement;

(d) 'Development Scheme' means a scheme prepared and sanctioned under this Ordinance for purposes of the development of an urban area;

(e) 'Engineering operations' includes the formation or laying out of means of access to a road or the laying out of means of water supply;

(f) 'Government' means the State Government;

(g) 'Improvement' with its grammatical variations means re-development of any built up area, whether partly built or fully built for the purpose of improving the environmental conditions of the locality by undertaking works such as widening of roads, extending or augmenting civic amenities, community facilities, utilities and services but does not include regulation and development of drinking water and drainage facilities and slum clearance or slum improvement;

(h) 'Improvement Scheme' means a scheme prepared and sanctioned under this Ordinance for purposes of the improvement of an urban area;

(i) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(j) 'local authority' means a Municipal Corporation, Municipal Council, Sanitary Board or a Notified Area Committee constituted or continued under any law for the time being in force;

(k) 'member' means a member of the Board;

(l) 'Planning Authority' means a Planning Authority as defined in clause (7) of section 2 of the Karnataka Town and Country Planning Act, 1961;

(m) 'section' means a section of the Ordinance;

(n) 'street' has the same meaning as in the Karnataka Municipalities Act, 1964;

(o) 'urban area' means any local area which is within the jurisdiction of a local authority;

(2) All other words and expressions used herein but not defined shall have the meanings respectively assigned to them in the respective Municipal laws in force in the area.

CHAPTER II

Improvement Boards

3. Establishment and Incorporation of Improvement Boards.—(1) As soon as may be, after the commencement of this Ordinance, the Government, may by notification, establish for the purposes of this Ordinance a Board for any Urban area to be called the "The Improvement Board of.....".

(2) The Board shall be a body corporate by the name aforesaid having a perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

4. Constitution of the Board.—The Board shall consist of the following members, namely :—

(a) a Chairman who shall be appointed by the Government ;

(b) an officer of the Department of Town and Country Planning Department not below the rank of an Assistant Director of Town and Country Planning appointed by the Government ;

(c) the Executive Engineer of the division ;

(d) two persons who are ordinarily resident in the urban area for which the Board is constituted, appointed by the Government ; and

(e) two elected representatives of the local authority concerned.

5. Term of office.—(1) Subject to the pleasure of the Government, the Chairman and other members appointed by the Government shall, hold office for a period of three years :

Provided that the term of office of the representative of the local authority shall come to an end when he ceases to be a councillor or member or when the local authority is superseded.

(2) The Chairman or a member, other than an ex-officio member, may resign his office by writing under his hand addressed to the Government but shall continue in office until his resignation is accepted.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy or defect in the constitution of the Board.

6. Casual vacancy.—Any casual vacancy in the office of a member other than the Chairman occasioned by death, resignation or disqualification of such member or occasioned by virtue of the proviso to sub-section (1) of section 5 shall be filled within one month of the occurrence of the vacancy in the same manner and subject so far as may be, to the same conditions specified in section 4:

Provided that the representatives of a superseded local authority shall be nominated by the Government:

Provided further that the member so chosen or nominated shall continue in office for the remainder of the term of the member in whose place he is appointed.

7. Disqualification for office of membership.—(1) A person shall be disqualified for being appointed as and for being a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is an undischarged insolvent; or

(d) has been removed or dismissed from the service of the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government; or

(e) has directly or indirectly by himself or his partner any share or interest in any work done by the order of the Board or in any contract or employment with or under or by or on behalf of the Board;

(f) being an elected member ceases to be a Councillor or a member of the local authority concerned;

(g) is employed as paid legal practitioner on behalf of the Board or accepts employment as legal practitioner against the Board.

(2) A person shall not be disqualified under clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

8. Removal of member.—The Government shall remove a member if—

(a) he becomes subject to any of the disqualifications mentioned in section 7:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given an opportunity of making his representation against the proposal; or

(b) he refuses to act or becomes incapable of acting; or

(c) he, without obtaining leave of absence from the Board absents from three consecutive meetings of the Board; or

(d) in the opinion of the Government he has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given an opportunity of making his representation against the proposal.

9. Meetings of the Board.—(1) The meetings of the Board shall be convened by the Chairman and shall be held at any place within the jurisdiction of the Board.

(2) The Board shall meet at such times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum) as may be provided by the Bye-laws.

(3) If, for any reason the Chairman is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman or in his absence, the person presiding shall have and exercise a second or casting vote.

(5) A member shall not, at any meeting of the Board take part in the discussion of or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest.

10. Proceedings presumed to be good and valid.—No disqualification of or defect in the appointment of any person acting as Chairman or member shall be deemed to vitiate any act or proceeding of the Board if such act or proceeding is otherwise in accordance with the provisions of this Ordinance.

11. Execution of Contracts.—(1) Every contract shall be made on behalf of the Board by the Chairman:

Provided that—

(a) no contract involving an expenditure exceeding twenty-five thousand rupees shall be made except with the previous sanction of the Government;

(b) (i) no contract involving an expenditure exceeding ten thousand rupees but not exceeding twenty-five thousand rupees shall, subject to clause (a), be made without the previous sanction of the Board;

(ii) no estimate or tender involving an expenditure of twenty-five thousand rupees or more, shall, subject to clause (a), be sanctioned or accepted without the previous sanction of the Board.

(2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate.

(3) Every contract made by the Chairman shall, subject to the approval of the Board, be entered into in such manner and form as may be prescribed.

(4) Any contract not made and executed as provided in this section and the rules made thereunder shall not be binding on the Board.

12. Duties of Chairman.—The Chairman shall—

(1) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(2) carry into effect the resolutions of the Board;

(3) keep and conduct the Board's correspondence;

(4) carry out and execute such schemes and works as the Government may require under sub-section (3) of section 13 and incur subject to the other provisions of this Ordinance. necessary expenditure therefor;

(5) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board; and to the extent specified in section 54 dispose of all questions relating to the service conditions of officers and servants, and their pay, privileges and allowances;

(6) furnish to the Government a copy of the minutes of the Board's proceedings and also furnish any returns or

other information which the Government may, from time to time, call for; and

(7) perform such other duties as are imposed on him by or under this Ordinance.

CHAPTER III

Duties and Powers

13. Power of Board to undertake works and incur expenditure for development, improvements, etc.—(1) The Board may, subject to the control of the Government,—

(a) draw up detailed schemes (hereinafter referred to as Development Schemes or Improvement Schemes) for the development or improvement or both of the areas within its limits; and

(b) undertake and execute any such Development schemes or Improvement Scheme as may be necessary from time to time and incur expenditure therefor.

(2) The Board may also from time to time make any new or additional Development Schemes or Improvement Schemes—

(i) on its own initiative from its resources; or

(ii) at the request of the local authority concerned if such local authority places at the disposal of the Board the necessary funds for framing and carrying out any such schemes :

Provided that the schemes of the Board referred to in clause (a) of sub-section (1) and in sub-section (2) shall be prepared in conformity with the outline Development Plan or Comprehensive Development Plan, if any, of the Planning Authority of the area concerned.

(3) Notwithstanding anything contained in sub-sections (1) and (2) but subject to conformity with the Outline

Development or Comprehensive Development Plans referred to in sub-section (2), the Government may, when it deems necessary, require the Board to take up any Development Scheme or Improvement Scheme or work and execute it in accordance with such terms and conditions as may be specified by the Government.

14. Particulars to be provided for in a Development Scheme or Improvement Scheme.—Every Development Scheme or Improvement Scheme under section 13—

(1) shall, within the limits of the area comprised in the scheme, provide for—

(a) acquisition of any land which, in the opinion of the Board, is necessary for the execution of the Scheme; and

(b) laying or re-laying out of all or any land including the construction and reconstruction of buildings and the formation and alteration of streets;

(2) may, within the limits aforesaid, provide for—

(a) raising any land which the Board may deem expedient to raise for the better drainage of the locality;

(b) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(c) the whole or any part of the sanitary arrangements required;

(d) sites for parks, playgrounds, stadium, recreation grounds, school buildings, markets, motor vehicle stands, theatres, police stations, post offices, co-operative societies, public urinals and latrines, petrol service stations, hospitals, dispensaries, banks, burial and cremation grounds and sites for public purposes of other kinds;

(3) may, within the limits aforesaid, provide for the construction of houses for the accommodation of

the persons to be displaced in the execution of the Scheme and such accommodation shall be deemed to include shops.

15. Procedure after preparation of the Scheme.— (1) when any Development Scheme or Improvement Scheme has been prepared, the Board shall prepare a draft of a notification stating the fact of a Scheme having been made and naming a place where the particulars of the Scheme, a map of the area comprised therein and a statement specifying the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment tax may be seen at all reasonable hours and shall—

(a) communicate a copy of such notification to the local authority concerned which shall, wihin sixty days from the date of receipt thereof, forward to the Board, for transmission to the Government as hereinafter provided, any representation which the local authority may think fit to make with regard to the Scheme; and

(b) cause a copy of the said notification to be published in the Official Gazette and affixed in some conspicuous part of the Board's office, the Deputy Commissioner,s office, the office of the local authority concerned and in such other places as the Board may consider necessary.

(2) If no representation is received from the local authority within the time specified in the communication under clause (a) of sub-section (1), the concurrence of the local authority to the proposal shall be deemed to have been given.

(3) During the thirty days next following the day on which such notification is published in the official Gazette, the Board shall serve a notice on every person whose name appears in the assessment list of the local authority within the local limits of whose jurisdiction the area comprised in the Scheme is situated or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment or any building or land which it is proposed to

acquire in executing the Scheme requiring such person to show cause within thirty days why such acquisition of the building or the land and the recovery of the betterment tax as specified in the notice should not be made.

16. Forwardal of Scheme.—(1) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the Scheme, the Board shall, after consideration of any representation received under section 15 and after making such modifications in the Scheme as it may deem fit, apply to the Government for sanction to the Scheme.

(2) The application for sanction shall, save in the case provided for by sub-section (3), be accompanied, by—

(a) a description with full particulars of the Scheme including the reasons for any modifications made therein;

(b) complete plans and estimates of the cost of executing the scheme;

(c) a statement specifying the land proposed to be acquired;

(d) any representation received under sub-section (1) of section 15;

(e) a schedule showing the rateable value, entered in the assessment list of the local authority at the date of the publication of a notification relating to the land under section 15, or the land revenue assessment of all land specified in the statement under clause (c); and

(f) such further particulars, if any, as may be prescribed.

(3) When under any Development Scheme or Improvement Scheme provision is made for the construction of houses the Board may, after complying with the provisions of section 15, submit to the Government for sanction plans and estimates for the construction of such houses and on receipt of such sanction the provisions of section 17 shall, with all necessary modifications, be applicable to the part of the Scheme providing for the construction of such houses, as if such part were the Scheme.

17. Sanction to Scheme and republication in case of modification. (1) The Government may sanction either with or without modification or may refuse to sanction, or may return for reconsideration, a Development Scheme or Improvement Scheme submitted to it under section 16.

(2) If a Scheme returned for reconsideration under sub-section (1) is modified by the Board, the Board shall if the modification affects the boundaries of the area comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired, publish the modified scheme in the manner specified in section 15.

18. Upon sanction, declaration to be published giving particulars of land to be acquired.—(1) Upon sanction of the Scheme, the Government shall publish in the official Gazette a declaration stating the fact of such sanction and that the land proposed to be acquired by the Board for the purposes of the Scheme is required for a public purpose.

(2) The declaration shall state the limits within which the land proposed to be acquired is situated, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Board shall, upon the publication of the said declaration proceed to execute the scheme.

(4) If at any time it appears to the Board that an improvement can be made in any part of the Scheme the Board may alter the scheme for the purpose making such improvement and shall subject to the provisions of sub-sections (5) and (6) forthwith proceed to execute the scheme as altered.

(5) If the estimated cost of executing the scheme as altered exceed, by a greater sum than five per cent of the estimated cost of executing the scheme as sanctioned, the Board shall not, without the previous sanction of the Government, proceed to execute the scheme as altered.

(6) If the scheme as altered involves the acquisition otherwise than by agreement, of any land other than that specified in the statement referred to in clause (c) of sub-section (2) of section 16 the provisions of sections 15 and 16 and of sub-section (1) of this section shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

19. Levy of betterment tax.—(1) Where as a consequence of execution of any development or improvement scheme, the market value of any land in the area comprised in the scheme which is not required for the execution thereof has in the opinion of the Board, increased or will increase, the Board, shall be entitled to levy on the owner of the land or any person having an interest therein a betterment tax in respect of the increase in value of the land resulting from the execution of such scheme.

(2) Such betterment tax shall be an amount equal to one third of the amount by which the market value of the property on the completion of execution of the development scheme estimated as if the land were clear of the buildings exceeds the market value of the land prior to such execution estimated in like manner.

(3) Such increase in value shall be the amount by which the value of the land, on the completion of the execution of the scheme, estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in like manner, and the betterment tax shall be one-third of such increase in value.

20. Assessment of betterment tax by the Board.—(1) When it appears to the Board that any Development or Improvement Scheme is sufficiently advanced to enable the amount of the betterment tax to be determined, the Board may, by an order made in this behalf, declare that for the

purpose of determining the betterment tax the execution of the Scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the Board proposes to assess the amount of the betterment tax in respect of the property under secion 19.

(2) The Board shall then assess the amount of betterment tax payable by the person concerned after giving such person an opportunity of being heard and such person shall, within sixty days from the date of receipt of the notice in writing of such assessment from the Board, inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2) such assessment shall be final.

(4) If the person concerned does not accept the assessment or fails to give the Board the information required by sub-section (2) within the period specified therein the Board shall make a reference to the District Court for determining the betterment tax payable by such person.

21. Manner of payment of betterment tax.—The betterment tax determined under section 20 shall be paid within such time and in such number of instalments not exceeding ten as may be specified by the Board together with interest at such rates as may be prescribed.

22. Recovery of betterment tax.—Where any person liable to pay betterment tax fails to pay the same within the time specified by the Board or makes default in payment of two consecutive instalments or any three instalments, the Board shall be entitled to recover the whole of the

amount due together with interest from the said person or his successor-in-interest in such land in the manner provided in Chapter VII of the Karnataka Municipalities Act, 1964, for the recovery of taxes and if the said money is not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the land or the interest of the said person or his successor in interest in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale and shall pay the balance (if any) to the defaulter.

23. Payment no bar for acquisition under a fresh declaration.—If any land, in respect of which the payment of a betterment tax has been accepted or determined under section 20 be subsequently required for any of the purposes of this ordinance, the acceptance or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

24. Power of Board to take up works for further Development.—Notwithstanding anything contained in this Ordinance, the Board may, with the previous sanction of the Government, take up such works in regard to any area as the Board considers necessary or desirable for the further development of that Area.

25. Crediting Betterment tax collected to the funds of the local authority in certain cases.—Where the increase in value of any land is as a result of the execution of a Development or Improvement Scheme made at the request of a local authority and for which the local authority has placed at the disposal of the Board necessary funds, the betterment tax collected by the Board from the person concerned shall, after deducting ten per cent thereof as collection charges, be credited by the Board to the local authority.

26. Board to execute schemes within three years.—The Board shall execute a Development Scheme or an Improvement Scheme within a period of three years from the date of sanction of the Scheme:

Provided that the Government may, by order, extend the time for execution.

CHAPTER IV

General

27. Land vested in a local authority and required by the Board for formation or alteration of street to be vested temporarily in the Board.—Whenever under any Development or Improvement Scheme, the whole or any part of any existing public street or other land vested in a local authority is included in the site of any part of a street to be formed, altered, widened, diverted, raised, re-arranged or re-constructed by the Board, the Board shall give notice to the local authority concerned that the whole or a part, as the case may be, of such existing street or other land (hereinafter called the "part required") is required by it as part of a street to be dealt with as aforesaid, and the part required shall, thereupon subject to the provisions of sub-section (1) of section 29, be vested in the Board.

28. Board to exercise powers and functions of local authorities.—(1) In any urban area or part thereof to which this Ordinance applies, the Government may, by notification, declare that from such date and for such period and subject to such restrictions and modifications, if any, as may be specified in the notification, the powers and functions of the local authority or a standing committee thereof shall be exercised and discharged by the Board:

Provided that the local authority shall be consulted before making such declaration, if such area or part thereof lies within the limits of the local authority.

(2) On the making of a declaration under sub-section (1) notwithstanding anything contained in any other law for the time being in force, the local authority or any standing committee or officer thereof shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Board by such declaration.

(3) The Board may delegate any of the functions exercisable by it under sub-section (1) to any officer or servant of the Board.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3), shall be subject to such limitations, conditions and control as may be laid down by the Board.

29. **Streets on completion and open spaces to vest in and be maintained by the local authority.**—(1) The Government after consulting the local authority and on being satisfied that any street formed by the Board has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any Scheme sanctioned by the Government and that such lamps, lamp-posts and other apparatus as are in its opinion necessary for the lighting thereof and should be provided by the Board have been so provided shall declare such street to be a public street, and such street shall thereupon vest or revest, as the case may be, in the local authority and the local authority shall thenseforward maintain, keep in repair, light and cleanse such street. If the local authority concerned does not reply within sixty days when it is consulted by the Government its concurrence shall be deemed to have been given.

(2) Any open space reserved for ventilation and the areas reserved for motor vehicles' stand, parks, playgrounds, public urinals and latrines, burial and cremation grounds in any part of the area within the jurisdiction of the local authority and provided by the Board as part of any Development Scheme or Improvement Scheme sanctioned

by the Government shall be transferred on completion to the local authority and shall thereupon vest in the local authority.

(3) Any dispute which arises between the Board and the local authority in regard to interpreting or implementing the provisions of this section shall be determined by the Government, whose decision shall be final.

30. Board not to sell or otherwise dispose of sites in certain cases.—The Board shall not sell or otherwise dispose of any sites for the purpose of constructing buildings thereon for the accommodation of persons until all the improvements specified in section 29 have been substantially provided for.

31. Forming of new extensions or layouts or making new private streets.—(1) Notwithstanding anything to the contrary in any law for the time being in force, no person shall form or attempt to form any extension or layout for the purpose of constructing buildings thereon without the express sanction in writing of the Board and except in accordance with such conditions as the Board may specify:

Provided that where any such extension or layout lies within the limits of a local authority, the Board shall not sanction the formation of such extension or layout without the concurrence of the local authority. The concurrence of the local authority shall be deemed to have been given if it fails to convey its opinion within sixty days after it is consulted:

Provided further that where the local authority and Board do not agree on the formation of or the conditions relating to the extension or layout, the matter shall be referred to the Government whose decision thereon shall be final.

(2) Any person intending to form an extension or layout or to make a new private street shall send to the Chairman,

a written application with plans and estimates showing such particulars, as may be prescribed by bye-laws made by the Board.

(3) The provisions of this Ordinance and of any rules or bye-laws made under it as to the level and width of streets and the height of buildings abutting thereon, shall apply also in the case of streets referred to in that sub-section shall be subject to the approval of the Board.

(4) Within six months after the receipt of any application under sub-section (2), the Board shall sanction the forming of the extension or layout or the making of streets on such conditions as it may think fit or disallow it, or ask for further information with regard to it.

(5) The Board may require the applicant to deposit, before sanctioning the application, the amount necessary for meeting the expenditure for making roads, side-drains, culverts, underground drainage and water supply and lighting and the charges for such other purposes as the applicant may be called upon by the Board to deposit, provided he agrees to transfer the ownership of the roads, drains, water supply mains and open spaces laid out by him to the Board permanently without claiming any compensation therefor.

(6) Such sanction may be refused,—

(i) if the proposed street would conflict with any arrangements which have been made or which are, in the opinion of the Board, likely to be made, for carrying out any general scheme of street improvement or other schemes of Improvement or Development by the Board;

(ii) if the proposed street does not conform to the provisions of this Ordinance, and the rules and bye-laws made under it;

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open; or

(iv) if the layout, in the opinion of the Board, cannot be fitted with any existing or proposed Development or Improvement Schemes of the Board.

(7) No person shall form a layout or make any new private street without the sanction of or otherwise than in conformity with the conditions imposed in this behalf by the Board. If the Board requires further information from the applicant, no steps shall be taken by him to form the layout or make the street until orders have been passed by the Board after the receipt of such information:

Provided that the passing of such orders shall not, in any case, be delayed for more than six months after the Board has received all the information which it considers necessary to enable it to deal finally with the said application.

(8) If the Board does not refuse sanction within six months from the date of receipt of the application under sub-section (2) or when information is called for under sub-section (7), within six months from the date such information is furnished, such sanction shall be deemed to have been granted and the applicant may proceed to form the extension or layout or to make the street but not so as to contravene any of the provisions of this Ordinance and the rules or bye-laws made under it.

(9) Every extension or layout for the formation of which sanction is granted or deemed to have been granted under this section shall be in conformity with the Outline Development Plan or the Comprehensive Development plan if any of the Planning Authority.

(10) Any person who forms or attempts to form any extension or layout in contravention of the provisions of sub-section (1) or sub-section (2) or makes any street without or otherwise than in conformity with the orders of the Board under sub-section (7) shall be liable, on conviction, to fine which may extend to one thousand rupees.

32. Alteration or demolition of extension, layout or street.—(1) If any person forms an extension or layout or makes any street referred to in section 31 or puts up any

building without or otherwise than in conformity with the orders of the Board under the said section, the Board may, whether or not such person be prosecuted under this Ordinance, by notice—

(a) require him to show sufficient cause, by a written statement signed by him and sent to the Board on or before such day as may be specified in the notice, why such extension, layout or street, should not be altered to the satisfaction of the Board or if such alteration be deemed impracticable by the Board, why such extension, layout or street should not be demolished, or

(b) require him to appear before the Board either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Board why such extension, layout or street should not be so altered or demolished, the Board, may for reasons to be recorded in writing, direct the alteration of demolition of such extension, lay-out or street.

(3) If any person fails to comply with any direction issued under sub-section (2) the Board may carry out the direction and recover the cost incurred therefor from such person as if they were arrears of land revenue.

33. Power of Board to order work to be carried out or to carry it out itself in default.—(1) The Board may,—

(a) if any person permitted to carry out the work relating to the forming of the extension or lay-out or the making of a street, does not carry it out; or

(b) if any private street or part thereof is not levelled, paved, matalled, flagged, channelled, sewered, conserved or lighted to the satisfaction of the Board,

by notice, require the person forming the extension or lay out or the owners of such street or part and the owners of buildings and lands abutting such street or part, including

in cases where the owners of the land or the building thereon are different, the owners both of the land and of the building, to carry out any work which, in its opinion, may be necessary and within such time as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Board may, if it thinks fit, execute it and the expenses incurred shall be paid by the persons or owners referred to in sub-section (1) in such proportions as may be determined by the Board, such expenses may be recovered from the persons concerned as if they were arrears of land revenue.

CHAPTER V

Acquisition of Land

34. Board to have power to acquire land by agreement.—Subject to the provisions of this Ordinance, the Board may enter into an agreement with any person for the purchase or lease from such person of any land which the Board is authorised to acquire, or any interest in such land.

35. Provision applicable to the acquisition of land otherwise than by agreement.—The acquisition of land otherwise than by agreement shall be regulated by the provisions of the Land Acquisition Act, 1894.

(2) For the purposes of sub-section (2) of section 50 of the Land Acquisition Act, 1894, the Board shall be deemed to be the local authority concerned.

(3) After the land vests in the Government under section 16 of the Land Acquisition Act, 1894, the Deputy Commissioner shall, upon the payment of the cost of the acquisition, and upon the Board agreeing to pay any further costs which may be incurred on account of the acquisition, transfer the land to the Board, and the land shall thereupon vest in the Board.

CHAPTER VI

Property and Finance

36. Power of Government to transfer to Board lands belonging to it or to a local authority.—(1) The Government may, by notification, for the purposes of this Ordinance and subject to such limitations and conditions as it may impose and to the provisions hereinafter contained, transfer to and vest in the Board any land belonging to Government or to a local authority.

(2) No land belonging to a local authority shall be vested in the Board under sub-section (1) except after consulting such local authority.

(3) Whenever it appears to the Government that any land vested in the Board under sub-section (1) is not required by the Board for purposes of this Ordinance or any other land vesting in the Board is required by the Government or local authority, the Government may, by notification, direct that the land shall revest in or stand transferred to the Government or the local authority concerned, as the case may be.

37. Power of Board to lease, sell or transfer property.—Subject to such restrictions, conditions and limitations as may be prescribed the Board shall have power to lease, sell

or otherwise transfer any movable or immovable property which belongs to it, and to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for building purposes or in any other manner for the purpose of any development scheme.

38. Power of Board to borrow.—(1) The Board may, from time, to time, with the previous sanction of the Government and subject to such conditions as may be prescribed in this behalf, borrow any sum required for the purpose of this Ordinance.

(2) The rules made by the Government for the purpose of this section may empower the Board to borrow by the issue of debentures and to make arrangement with the bankers.

(3) Debentures issued by the Board shall be in such form as the Board may with the sanction of the Government may, from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the Government as to the repayment of principal and payment of interest at such rate as may be fixed by the Government.

39. Board Fund, the items to be credited to such Fund and its deposit.—(1) The Board shall have and maintain its own Fund to which shall be credited—

(a) all moneys received by the Board from the Government by way of grants, loans, advances or otherwise:

(b) all fees, fines and charges received by the Board under this Ordinance ;

(c) all moneys received by the Board from the disposal of lands, buildings or other property movable or immovable ;

(d) all moneys received by the Board by way of rents and profits or in any other manner or from any other source.

(2) The Fund shall be applied by the Board in the administration of this Ordinance and for no other purposes.

(3) The Board shall keep such sum of money out of its Fund as may be prescribed in the Government Treasury and any money in excess of it shall be deposited in a Scheduled Bank or invested in such manner as may be approved by the Government.

40. Laying of annual estimate of income and expenditure.- (1) The Chairman shall, at a special meeting to be held not later than the first day of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as the Board shall, from time to time, direct.

(2) Such estimate shall make provision for the efficient administration of this Ordinance and a copy of the estimate shall be sent by post or otherwise to each member of the Board at least ten clear days prior to the date of the meeting.

41. Board to approve or amend such estimates.—The Board shall consider the estimate so submitted to it and shall approve the same either unaltered, or subject to such alterations as it thinks fit.

42. Estimates to be submitted to Government for sanction.—The estimate, as approved by the Board shall be submitted to the Government which may, either sanction or disallow such estimate, or any portion thereof and return the same for amendment. The Board shall, forthwith amend the estimate so returned and shall re-submit the amended estimate to the Government. A copy of the estimate as sanctioned by the Government shall be sent to the local auhorities concerned.

43. Supplementary estimates may be prepared and submitted when necessary.—The Board may, at any time during the year for which any estimate has been sanctioned cause a supplementary estimate to be prepared and submitted to it. Every such supplementary estimate shall be considered and approved by the Board and submitted to the Government for sanction and a copy of the estimate as sanctioned shall be sent to the local authority concerned in the same manner as if it were an original annual estimate.

44. Provisions regarding expenditure.—No sum shall be expended by or on behalf of the Board, unless included in the estimate or a supplementary estimate :

Provided that an expenditure not exceeding twenty-five thousand rupees may be incurred, though not so included in unforeseen circumstances or to satisfy a decree of a court and in such a case the Chairman shall make a report, as soon as practicable to the Government indicating the circumstances in which the expenditure was incurred and the source from which it is proposed to be met :

Provided further that any such expenditure shall be included in a supplementary estimate to be approved and sancioned in the manner laid down in section 43.

45. Power to make reappropriation.—Subject to such rules as may be made under this Ordinance, the Board may within the sanctioned budget make reappropriations from one sub-head to another or from one minor head to another minor head under the same major head of account.

46. Audit of Accounts.—(1) The accounts of the Board shall be audited annually by an auditor appointed by the Government.

(2) The auditor shall, for the purposes of the audit, have access to all the accounts and other records of the Board.

(3) The Board shall pay from its fund such charges for the audit as may be prescribed.

47. Power of auditor to require production of documents and attendance of persons concerned.—(1) The Auditor may—

(a) require in writing the production of such vouchers, statements, returns, correspondence, notes or other documents in relation to the accounts as he may think fit;

(b) require in writing any salaried servant of the Board accountable for, or having the custody or control of, such vouchers, statements, returns, correspondence, notes or other documents or of any property of the Board or any person having directly or indirectly by himself or his partner, any share or interest in any contract with or under the Board to appear in person before him at the Board office and answer any question ;

(c) in the event of a clarification being required on any specific point from the Chairman or any officer, or member in writing, require such person to furnish the clarification on such point.

(2) The auditor may, in any requisition made under sub-section (1) fix a reasonable period not being less than three days within which the said requisition shall be complied with.

(3) The auditor shall give to the Board not less than two weeks' notice in writing of the date on which he proposes to commence the audit :

Provided that notwithstanding anything contained in this sub-section, the auditor may for special reasons which

shall be recorded in writing, give shorter notice t · t) weeks or commence a special or detailed audit if so directed by the Government without giving notice.

48. Penalty for disobeying requisition under section 47.— (1) Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clauses (a), (b) or (c) of sub-section (1) of section 47 shall, on conviction, be punished with fine which may extend to two hundred rupees:

Provided that no proceedings under this section shall be instituted except with the sanction of the Government or such other officer as the Government may authorise in this behalf :

Provided further that before giving such sanction the Government or the authorised officer shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

49. Audit Report.—(1) The auditor shall include in his report a statement of :—

(a) every payment which appears to him to be contrary to law ;

(b) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person ;

(c) the amount of any sum received which ought to have been but is not brought into account by any person. and

(d) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (a), (b) and (c).

(2) Within three months after the completion of the audit the auditor shall send a report on the accounts audited and examined to the Board.

50. Board to remedy defects.—(1) Within two months of the receipt of the report under section 49 the Chairman, shall place it before a meeting of the Board

together with a statement of the action taken or proposed to be taken to remedy and defect or irregularity that may have been pointed out in such report and an explanation in regard thereto and shall with the approval of the Board remedy the defects or irregularities. He shall also as soon as may be, after the decision of the Board send to the Controller, State Accounts Department, intimation of having remedied the defects or irregularities pointed out in the report, or shall, within the said period, supply the Controller any further explanation in regard to such defects or irregularities as the Board may decide to give

(2) On receipt of such intimatioin or explanation the Controller, may,—

(a) accept the explanation given, by the Board and withdraw the objection, or

(b) direct that the matter be re-investigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities have not been removed or remedied.

(3) The Controller, shall send a report to the Government and shall forward a copy of such report to the Chairman. The Controller, shall, state in the report whether in his opinion the defects or irregularities have or have not been removed or remedied and indicate whether the defects or irregularities can be regularised or whether they can be condoned. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged

(4) The Board shall include in its next administration report such portions of the report under section 49 as deal with defects and irregularities falling under clause (c) of sub-section (2), the explanation if any, given under sub-section (1) and the final report of the Controller, thereon under sub-section (3).

(5) Nothing in this section shall preclude the Controller, at any time from bringing to the notice of the Government any matter which appears to him to involve criminal misappropriation or fraud or deserves special attention or immediate investigation.

51. Government to surcharge or charge illegal payment or loss caused by negligence or misconduct.—The Government may, after considering the report the Controller, and after taking the explanation of the person concerned, or making such further enquiry as it may consider necessary, by order disallow any item which appears to it to be contrary to law and surcharge the same on the person making, or authorising the making of the illegal payment; and may charge any person responsible therefor the amount of any deficiency or loss caused by the negligence or misconduct of that person, or any such amount received which ought to have been, but is not brought into account by that person and shall, in every such case, certify the amount due from such person.

(2) A copy of the order under sub-section (1) shall be sent by registered post to the person concerned.

52. Recovery of surcharge and charge how made.—(1) The amount surcharged or charged shall, be paid by the person concerned within one month from the date of communication of the order under section 51 into the treasury or bank holding the funds of the Board.

(2) The said sum, if not so paid, shall be recovered as arrears of land revenue.

CHAPTER VII

Officers and Servants of the Board

53. Schedule of officers and servants to be submitted for nction of Government.—The Board shall, from time to

time, prepare and submit for the sanction of the Government a schedule of the staff of officers and servants whom it may consider necessary and proper to employ for its purposes . Such schedule shall also setforth the amount and nature of the salaries, and allowances which the Board proposes for each such officer or servant. No alternation in the sanctioned schedule shall be made without prior sanction of the Government.

54. Appointments by whom to be made.—(1) Subject to the provisions of Section 365 of the Karnataka Municipalities Act, 1964, (Karnataka Act 22 of 1964), the rules and bye-laws made under this Ordinance and of the schedule for the time being in force sanctioned by the Government under Section 53, the powers of appoiting, promoting suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board (not being officers of the Government lent to or working under the Board) shall be exercised, in the case of officers and servants whose monthly salary does not exceed two hundred and fifty rupees by the Chairman and in every other case by the Board:

Provided that in the case of officers of the Government lent to the Board, the Chairman may exercise the powers of granting leave and sanctioning increments and after following the prescribed procedure, of withholding increments and shall report the fact to the Head of the Department to which such officer belongs.

Explanation.—For purposes of Section 365 of the Karnataka Municipalities Act, 1964, the Board shall be deemed to be a local authority.

(2) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance shall, subject to the aforesaid provisions, be exercised only by the Board.

(3) Any party aggrieved by an order of the Board under sub-section (2)may appeal to the Government within thirty days of the order.

CHAPTER VIII

Control

55. Control by Government.—The Board shall carry out such directions as may be issued to it from time to time by the Government under the provisions of the ordinance for the efficient administration of the Board and its affairs.

56. Action in case of defaults by Board.—If the Board fails to carry out any direction issued under section 55 within the period, if any, fixed in such direction, the Government may make arrangements to take such action and recover all expenses connected therewith from out of the Board's Funds.

57. Power to cancel or modify order, etc.—If in the opinion of the Government the execution of any order or resolution of the Board or the doing of anything which is about to be done or it being done by or in behalf of the Board is unjust, unlawful or improper or is causing or is likely to cause loss or damage to or prejudice to the interests of the Board or is causing or likely to cause injury or annoyance to the public or breach of the peace, the Government may, by order, cancel or modify such order or resolution or pass such other order as it deems fit:

Provided that before passing an order under this section, the Government shall give the Board on opportunity of making representaion against the proposed order:

Provided further that pending action under this section, the Government may direct the stay of the execution of any order or resolution of the Board or the doing of anything by or on behalf of the Board subject to such conditions as it may think fit.

58. Supersession of the Board.—(1) If the Government is satisfied that the Board has made default in performing

any duties imposed on it by or under this ordinance or any other law or has abused its power or is acting in a manner prejudicial to the interests of the Board or its finances the Government may by notification, supersede and reconstitute the Board:

Provided that before issuing the notification under this sub-section the Government shall give an opportunity to the Board to make a representation why it should not be superseded and shall consider the representation, if any made.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board shall be exercised by such officer or officers as the Government may appoint.

59. Dissolution of the Board.—(1) Where the Government is satisfied that the purpose for which the Board was established has been substantially achieved so as to render the existence of the Board unnecessary, it may, by order published in the Official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the order and thereupon the Board shall be deemed to be dissolved accordingly.

(2) From the said date,—

(a) all properties, funds, dues which are vested in, or realisable by the Board shall vest in or be realisable by the local authority concerned;

(b) all Government lands placed at the disposal of the Board shall revert to the Government;

(c) all liabilities which are enforceable against the Board shall be enforceable against the local authority concerned; and

(d) for the purpose of carrying out any development which has not been fully carried out by the Board and for the purpose of realising properties, funds and dues referred

to in clause (a), the functions of the Board shall be discharged by the local authority concerned.

(3) When the Board is dissolved under sub-section (1), the Government may pass such orders as it deems necessary in respect of the officers and servants of the Board.

60. Penalty for being interested in contracts with the Board.—If any member or officer or servant of the Board knowingly acquires, directly or indirectly by himself or by a partner, employer or servant, any share or interest in any contract or employment with, by or on behalf of the Board, he shall be deemed to have committed the offence under section 168 of the Indian Penal Code :

Provided that a person shall not be deemed to have any share or interest, in such contract or employment by reason only of his having a share or interest if any, in any news paper in which any advertisement relating to the affairs of the Board is inserted

61. Members and officers to be public servants.—Every member and every officer or other employee of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

62. Sanction of prosecutions.—No court shall take cognizance of an offence under this Ordinance, the rules or bye-laws made thereunder except on the complaint made with the previous sanction of the Board by such officer as the Board may authorise in this behalf.

63. Fines to be credited to Board Fund.—All fines recovered under this Ordinance by or under the order of a court shall be paid to the credit of the Board Fund.

64. Recovery of sums due.—Save as otherwise provided in section 22 all sums due by any person to the Board on account of sale proceeds of property vested in or acquired

by the Board or otherwise howsoever and remaining in arrears after fifteen days from the date of service on such person of a notice of demand may be recovered in any one or more of the following ways, namely :—

(1) by distraint and sale, by or under the orders of the Board, of the movable property of such person ; and

(2) as arrears of land revenue, on the written application of the Board in this behalf to the Deputy Commissioner of the district in which proceedings are required to be taken.

65. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Board, the Chairman, member, officer or servant of the Board or any person acting under the orders or directions of the Board for anything which is in good faith done or intended to be done under this Ordinance or any rule or bye-law made thereunder.

66. Service of notice.—Save or otherwise provided any notice notice or order issued or made under this Ordinance shall be served in the prescribed manner.

67. Offences by companies.—(1) Where an offence under this Ordinance is committed by a company, the company, as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due deligence to prevent the commission of such offence.

(2) Nowithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been

(d) the manner of payment of the betterment tax;

(e) the procedure, conditions and restrictions subject to which and the form in which the Board may let on hire, lease, sell or otherwise convey any movable or immovable property;

(f) the amount of money to be kept by the Board in the Government Treasury;

(g) the form in which and the time within which the budget esimates of the Board shall be prepared and submitted to the Government;

(h) any other matter for which rules have to be made or necessary under this ordinance.

(3) In making a rule under this section, the Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one hundred rupees and in the case of a continuing breach, with additional fine which may extend to fifty rupees for every day during which such breach continues after receipt of a notice from the Board requiring such person to discontinue the breach.

(4) A rule under this ordinance may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (5) every rule made under this Ordinance shall have effect as if enacted in this Ordinance.

(5) Every rule made under this Ordinance shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following, the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date on which the modification or annulment is notified by the Government

in the Official Gazette, have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

70. Power of Board to make bye-laws.—(1) Subject to the provisions of this Ordinance and the rules made thereunder the Board may from time to time, make, alter or rescind bye-laws—

(a) for regulating the delegation of the powers and duties of the Board to an officer of the Board ;

(b) for the guidance of persons employed by it under this Ordinance ;

(c) for regulating the matters relating to the recruitment, discipline and other conditions of service of the officers and servants of the Board ; not being officers of the Government lent to or working under the Board ;

(d) for the management, use and regulation of Houses constructed under any Scheme ;

(e) for regulating the construction and reconstruction of buildings in regard to the following matters, namely, the notice to be submitted, the line of frontage with neighbouring buildings, the free space to be left about the building, the level and width of foundation, the stability of structure and materials to be used, and the provision to be made for drainage, and ventilation ;

(f) for the forming of extension or lay-outs and the laying out of private streets, the information and plans to be submitted with the application for permission to form extensions or lay-outs and to make private streets, and for regulating the level and width of streets and the height of buildings abutting thereon ;

(g) matters relating to the construction of footpaths, erection of streetlights and planting of trees ; and

(h) generally for carrying out the purposes of this Ordinance.

(2) In making a bye-law under sub-section (1), the Board may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees and in the case of a continuing breach with additional fine which may extend to fifty rupees for every day during which such breach continued after notice is received from the Board requiring such person to discontinue the breach.

(3) Any such bye-law may also provide that a person contravening the same shall be required to remedy the mischief, if any, caused by such breach.

(4) The Board shall, before making any bye-law under this section, publish in the Official Gazette for the information of persons likely to be affected thereby, a draft of the proposed bye-law together with a notice specifying a date not being earlier than thirty days from the date of publication of the draft of the proposed bye-law on or after which the draft will be taken into consideration, and shall before making the bye-law consider any objection or suggestion received with respect to the said draft before the date so specified.

(5) No bye-law made by the Board under this section shall have effect until it has been approved by the Government; and every such bye-law shall be submitted to the Government along with a statement containing the views of the Board on the objections and suggestions if any received and a copy of the notice published under sub-section (4) and every objection or suggestion received with respect to the draft bye-law.

(6) The Government while approving a bye-law may make any change therein which appears to it to be necessary.

(7) Every bye-law as approved by the Government shall be published in the Official Gazette and shall come into force from such date not being earlier to the date of

publication of the bye-laws in the Gazette as may be specified by the Board and when no such date is specified, on the date of such publication.

71. Rules and bye-laws to be exhibited.—The rules and bye-laws made under sections 69 and 70 shall be exhibited at such places as may be prescribed and copies shall be made available for sale by the Board.

MOHANLAL SUKHADIA,
Governor of Karnataka.

By Order and in the name of the Governor of Karnataka,

M. L. RAMASWAMI,
Draftsman and Ex-officio Joint
Secretary to Government,
Department of Law and Parliamentary Affairs.

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